

IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IN THE MATTER OF:	)	
	)	
RESTAURANT VILLEGAS, LTD.,	)	Bankr. Case No. 07-03003
	)	Honorable Jeffrey R. Hughes
Debtor.	)	Chapter 7
	)	
	)	

AGREED ORDER AVOIDING TAX LIEN  
OF THE UNITED STATES PURSUANT TO 11 U.S.C. § 724(a)

Trustee, Kelly M. Hagan ("Trustee"), and the creditor United States of America, by and through their respective counsel or agents, hereby agree and stipulate as follows:

1. On April 25, 2007, Restaurant Villegas, Ltd., ("Debtor") filed a voluntary petition under Chapter 11 of the Bankruptcy Code ("Petition Date"), and the case was subsequently converted to a case under Chapter 7.

2. Subsequent to the aforementioned filing, Kelly M. Hagan, was appointed the duly qualified and acting Chapter 7 trustee in this case.

3. The United States, through the Internal Revenue Service, timely filed a Proof of Claim, asserting a secured claim in the total amount of \$165,238.71, an unsecured priority claim in the amount of \$54,148.52, and an unsecured general claim in the amount of \$14,120.28.

4. On March 11, 2009, the Trustee's motion seeking the Court's approval to sell the Debtor's liquor license was granted, and the Debtor's liquor license was subsequently sold for \$25,000.00 ("Proceeds").

5. The federal tax liens of the United States attached to the Proceeds. These federal tax liens have priority over all other asserted liens on the Proceeds to the extent of \$165,238.71,

- 2 -

because Notices of Federal Tax Liens were lawfully filed pursuant to 26 U.S.C. § 6323(f), before all other asserted liens existed.

6. The Trustee seeks to avoid the portion of the federal tax liens that have attached to the Proceeds, which secures the pre-petition penalties included in the United States' secured claim, pursuant to 11 U.S.C. § 724(a).

7. That \$69,862.02 of the United States' secured claim represents pre-petition penalties that are a claim of the kind specified in 11 U.S.C. § 726(a)(4), and the liens for these penalties are avoidable by the Trustee pursuant to 11 U.S.C. § 724(a).

8. Thereafter, the federal tax liens of the United States shall still have priority over all other asserted liens on the Proceeds to the extent of \$95,376.69 as of the Petition Date.

9. The portion of the United States' federal tax liens that the trustee seeks to avoid pursuant to 11 U.S.C. § 724(a) are preserved for the benefit of the bankruptcy estate pursuant to 11 U.S.C. § 551.

Now therefore, it is hereby –

ORDERED that the United States' federal tax liens for the pre-petition penalty portion of its secured claim in the amount of \$69,862.02 are avoided by the Trustee pursuant to 11 U.S.C. § 724(a) and preserved for the benefit of the bankruptcy estate pursuant to 11 U.S.C. § 551 in the same priority as the original federal tax liens; and,

- 3 -

ORDERED that this agreed order shall in no way affect the validity, extent, and priority of other liens attaching to the assets of the Debtor nor the right of the Trustee to assert that other liens may be avoided or subordinated by the Trustee pursuant to the Bankruptcy Code.

IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
HON. JEFFREY R. HUGHES  
United States Bankruptcy Judge

*Agreed to and Stipulated by:*

KELLY M. HAGAN, TRUSTEE

UNITED STATES OF AMERICA

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**END OF ORDER**